

## Panels and Independent Financial Advisers

**Historically, pension scheme administrators, trustees and employers have expressed concern with regard to the scope of their responsibilities in providing financial advice to members and have hesitated in recommending or facilitating access to particular financial advisers. The generic information and guidance set out below outlines The Pensions Ombudsman (TPO)'s approach to the provision of factual information in respect of independent financial advisers.**

TPO recognises that retirement planning is a challenge for most members of pension schemes.

Regulated financial advice can play a role in helping individuals manage their retirement benefits, understand and mitigate the potential tax implications of their decisions, and reduce their exposure to pension scams.

However, pension scheme administrators and others, for example, employers or trustees, cannot provide financial advice unless they are authorised by the Financial Conduct Authority (FCA) to do so. Nevertheless, they can provide members with factual information, including direction on where members can obtain independent financial advice.

A pension scheme administrator or other person may also decide to provide members with a list of independent financial advisers (IFAs) for them to consider and choose from. The implication that follows is that those advisers are regulated and that they have been vetted by whoever has compiled the list.

The FCA has expressed the view that a one-off exercise of identifying suitable IFAs, such as providing a list of advisers that scheme members may like to use, is by itself unlikely to be considered to be making arrangements with a view to transactions 'by way of business'. So, it would not generally be considered to be a regulated activity requiring authorisation by the FCA.

Additionally, pension scheme administrators or others should normally facilitate access to IFAs covering the whole of the market (and not those restricted to certain types of products or providers), should carry out and be able to demonstrate appropriate due diligence, and should ensure ongoing monitoring of any IFAs included on a list.

Careful consideration should be given as to the criteria under which the IFA firms are to be selected and retained or replaced over time, including but not restricted to the level of charges (particularly any discounts negotiated for members), reputation, required regulatory permissions, any past regulatory sanction, particular area of expertise, geographical location, and customer satisfaction reviews. Consideration should also be given to how a panel of firms may be selected in a manner which is demonstrably impartial, and which does not conflict with

competition law. Consideration should be given to the inclusion of the following in any factual information provided to members about potential IFAs:

- the pension scheme administrator or other person is just facilitating access to advice, and not recommending any particular course of action - the choice of whether to obtain advice, and if so who from, is solely that of the member;
- any legal relationship is solely between the member and the IFA;
- the pension scheme administrator or other person is not responsible for the IFA's advice; and
- the list is provided purely as a potential aid to the member and that they are of course free to select an IFA of their own choosing if they so wish.

In the event that a member or former member of a pension scheme is given poor financial advice by an IFA contained on a list provided by a pension scheme administrator or other person, and suffers a subsequent loss, that individual may look to make a complaint against the IFA to the Financial Ombudsman Service. But they may also consider that the pension scheme administrator or other person has not, for example, undertaken sufficient due diligence in preparing the list of IFAs and may look to take a complaint to TPO against them on the basis of maladministration.

A pension scheme administrator or other person would generally be in a stronger position in relation to any complaint submitted against it to TPO regarding its listed IFAs, if it can show, in addition to the comments above, that it, for example:

- has taken sufficient steps to check an IFA's status with the FCA;
- has no other reason within its knowledge as to why the IFA should not be able to provide competent, regulated advice; and
- has continued to monitor these aspects at an appropriate level.

However, TPO would assess each complaint on its own facts and a complaint of this nature may also be linked to other issues which may impact on any final decision.

A scheme establishing an IFA panel should, where appropriate, seek professional advice before proceeding.